

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 27, 1999

ALL COUNTY LETTER NO. 99-111

TO: ALL COUNTY WELFARE DIRECTORS
ALL WELFARE-TO-WORK COORDINATORS
ALL CalWORKs PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS
(CalWORKs) WELFARE-TO-WORK (WTW) PROGRAM: QUESTIONS
AND ANSWERS REGARDING COMMUNITY SERVICE

REFERENCE: ASSEMBLY BILL 1542, CHAPTER 270, STATUTES OF 1997
MANUAL OF POLICIES AND PROCEDURES

The purpose of this All County Letter (ACL) is to provide guidance to counties related to the community service component of the CalWORKs WTW program. Community service is an allowable activity for any CalWORKs WTW program participant. However, counties must develop community service plans to serve CalWORKs recipients who have reached their 18- or 24-month time limit on aid, but are unemployed or employed for insufficient hours to meet the work participation requirement. This ACL is intended to be a reference tool for counties that are developing and implementing their community service plans. Counties are encouraged to use the flexibility allowed under CalWORKs to develop innovative community service plans, within allowable legal parameters, that are responsive to local needs and will help participants to successfully prepare for self-sufficiency.

1. What are the statutory and regulatory requirements for the CalWORKs county plan related to community service programs for CalWORKs recipients who have reached the 18- or 24-month time limit?

State statute and Manual of Policies and Procedures (MPP) Section 42-780.12 require that the CalWORKs county plan include a community service component. Community service activities, which are limited to the public and/or private nonprofit sector, are intended to provide the participant with job skills and must also comply with the nondisplacement provisions in MPP Section 42-720. The county's community service plan is to be developed by

the county in collaboration with local private sector employers, local education agencies, county welfare departments (CWDs), organized labor, recipients of aid, and government and community-based organizations providing job training and economic development. At a minimum, the county plan must describe the following:

- (a) Community needs that may be met because of the community service activities to be performed by clients;

Example: Identified community needs could include support for nutrition/food closet programs, teachers' aides, tutorial programs for children and/or adults, community recreation programs, child care providers, clerical support for public agencies, public grounds and facilities maintenance, neighborhood beautification projects, recycling programs, public safety programs (neighborhood watch), and support for charitable agencies and/or projects.

A general description of the types of duties and activities that will be performed by community service participants.

- (b) Clients who will be participating in the program;

The community service plan should specify which recipients are to be served in the program. Unless already specified in the county's CalWORKs plan, the county's community service plan also should indicate if recipients who have not reached the 18- or 24- month time limit may be assigned to community service.

This section should also include a brief general description of the following: client flow, assignment/reassignment determination processes, and monitoring of client participation in community service.

- (c) Agencies involved in the planning, administration, and management of the program, and their respective roles;

At a minimum the plan should list and describe the role of each agency involved in the development and administration of the county's community service plan.

- (d) Approximate duration of community service placements, which to the extent feasible, are to be temporary and transitional;

Example: Counties may decide to limit community service assignments that provide training for unskilled work to a period of no more than three months, while allowing the duration of assignments considered as training for semi-skilled or skilled work to exceed three months.

- (e) Supportive efforts (i.e., job search, education, and training activities), that the county intends to provide to individuals who have reached the 18- or 24-month time limit, and are meeting the hours of work participation requirement through unsubsidized employment and/or community service (See Questions #4 (d) regarding other activities and #7 regarding hours of participation).

2. Are there situations under which other activities may be included in community service after the 18- or 24-month time limit?

Yes. Activities, such as instruction or training that are required for, or relevant to, the specific community service activity in which a recipient is placed, may be considered part of his/her community service assignment. The assignment of individuals to instructional or training activities should be individualized based upon the requirements of the community service placement and the individual's skills. These individualized instructional or training activities are also countable towards meeting the community service participation requirement.

Example: An individual performing child care duties as his/her community service activity may be allowed to attend child development classes as part of his/her community service activity if the classes are required for all providers at the child care site and/or they will enhance the individual's ability to provide care.

Example: An individual performing clerical support duties that require the use of a personal computer may be allowed to attend computer training classes, as part of his/her community service activity, to obtain necessary computer skills.

Example: A limited-English speaking individual performing parks and recreation aide duties may be allowed to attend Vocational English-as-a-Second Language (VESL) classes, as part of his/her community service activity, to enhance his/her ability to follow instructions and properly use equipment and supplies.

3. Can a county's plan for community service include participation in other welfare-to-work activities as a standard component of community service?

To comply with State statute and regulations, a county's plan for its community service component must not routinely require individuals to participate in welfare-to-work activities, other than community service or unsubsidized employment, and/or count the time spent in these other welfare-to-work activities toward an individual's required hours of participation. For instance, a county community service plan that requires all post time-limit recipients to participate in 20 hours of community service, six hours of vocational training, and six hours of job

search per week, as part of their community service assignment, would not be certifiable.

See question #2, for conditions under which other activities may count toward meeting the individual's community service requirement.

4. Are there situations in which welfare-to-work activities other than community service are allowable post 18- or 24-month time limit?

Yes. There are limited instances in which counties can provide welfare-to-work activities, other than community service, to an individual who has reached the 18- or 24-month time limit. Except as noted in part (d) below these activities also count toward meeting the individual's hours of work participation requirement. These instances are as follows:

- (a) An individual who has received aid for a cumulative period of more than 18 or 24 months, and returns to aid after a break in aid of at least one month, may be required by the county to participate in community service or other welfare-to-work activities to meet his/her work participation requirement, as specified in MPP Section 42-710.31.

The county must adopt criteria to be used in determining the appropriate placement for individuals returning to aid. The adopted criteria must be in writing and be made available to the public upon request, in accordance with MPP Section 11-501.3.

- (b) An individual who is subject to the 18-month time limit and is granted a six-month extension of the time limit, as specified in MPP 42-710.12.

MPP Sections 42-710.12 and 11-501.3 require that counties adopt written criteria for extending the 18-month time limit.

- (c) An individual who must participate in substance abuse treatment and/or mental health counseling and/or domestic abuse services in order to participate in his/her assigned community service activity.

The hours of participation in substance abuse treatment and/or mental health counseling and/or domestic abuse services may be counted toward meeting the individual's work requirement, if the treatment and/or counseling and/or domestic abuse service enables or supports the individual's participation in community service and is included in the individual's welfare-to-work plan.

- (d) An individual who has reached the 18- or 24-month time limit, and is meeting the work participation requirement through unsubsidized employment and/or community service, may participate in additional activities, e.g., job search, education, and training.

Individuals that have already met their hours of work participation requirement through unsubsidized employment and/or community service may voluntarily participate in additional activities. The hours spent in these other activities will not count toward meeting the individual's work participation requirement, however, to the extent possible, these activities should be consistent with their welfare-to-work plan. Also, as noted in the response to Question #1, the supportive efforts that a county will provide must be described in the county's CalWORKs community service plan.

5. Can individuals develop their own community service placements?

Yes. Individuals may develop their own community service placement but a county cannot require individuals to develop their own placements. Counties may deny a self-initiated community service placement if it is inconsistent with the individual's welfare-to-work plan or does not conform to State statute, regulations, or policies governing community service.

6. Can CalWORKs participants who have reached the 18- or 24-month time limit participate in paid community service?

Yes. State statute and regulations allow counties to provide grant-based community service, a form of subsidized employment. This is the only form of paid community service authorized by State statute and regulations.

As defined in MPP Section 42-701.2(g)(2) and 42-701.2 (s)(3), grant-based on-the-job training (OJT) is a funding mechanism for OJT, community service, supported work, or transitional employment in which all, or part, of a recipient's grant is diverted to an employer as a subsidy to offset the payment of wages to the participant. Participants in grant-based subsidized community service positions are to be considered employees and as such the employer must comply with applicable minimum wage and employer withholding and tax requirements. Additionally, in accordance with MPP Section 44-111, the recipient's wages from grant-based OJT community service are to be considered earned income, and the standard earned income disregards (\$225 and 50 percent of earned income) must be applied to determine the recipient's grant amount.

Under grant-based OJT, the CWD must monitor the employer's compliance with the job retention requirements that are specified in MPP Section 42-716.111(f) (3). In addition, MPP Section 42-716.111 (f) requires the CWD to ensure that the individual receives 100 percent of the maximum grant payment if an employer fails to pay wages owed to the participant. The CWD must attempt to collect from the employer the diverted grant amount that was not paid to the participant. The CWD also may file or assist the affected individual in filing a complaint regarding the nonpayment of wages with the appropriate state or federal agency, e.g., State Labor Commissioner.

Individuals participating in grant-based OJT community service placements are WTW program participants and are entitled to the same due process rights and notification provisions as other CalWORKs WTW participants.

7. How many hours of participation are required for CalWORKs participants in allowable welfare-to-work activities after reaching the 18- or 24-month time limit?

In accordance with MPP Section 42-711.4, unless exempt from participation, an adult recipient in a one-parent assistance unit (AU) must participate each month in welfare-to-work activities for a minimum of at least 32 hours per week, averaged monthly, and an adult recipient in a two-parent AU must participate each month for at least 35 hours per week, averaged monthly. However, both parents in a two-parent AU may contribute toward the 35-hour requirement, if at least one parent participates for a minimum average of 20 hours per week. An adult recipient in a two-parent AU may choose to do all 35 hours, but must not be required to participate for more than 35 hours per week, averaged monthly.

8. If one parent, in a two-parent household, is participating in CalWORKs welfare-to-work activities for 35 hours per week, averaged monthly, is the other parent eligible to receive cash aid post 18- or 24-month time limit?

Yes. The pre- and post-time limit work requirements for a two-parent AU are the same. As noted in the response to Question #7 above, both parents in a two-parent AU may contribute toward the 35-hour requirement, if at least one parent meets the federal work requirement of a minimum average of 20 hours per week. Neither State statute nor regulations require that both parents contribute to the 35 hours per week work requirement in order to remain eligible for aid.

9. How does the Fair Labor Standards Act (FLSA) impact CalWORKs?

The FLSA applies to CalWORKs employment activities such as unsubsidized and subsidized employment where an individual is receiving a wage. The overall FLSA issue and its impact and implications for the CalWORKs program are under review by the Administration, and the Department will provide counties with the results of this review as soon as they are available.

10. Under current State law and policy, are participation hours in community service limited to the number of hours equal to the grant amount divided by minimum wage?

The hours of participation for all welfare-to-work activities, including community service, are set by State statute and regulations as described in Question #7 above, and not by a minimum wage calculation.

11. What supportive services must be provided for CalWORKs participants who are in either community service or unsubsidized employment post 18- or 24-month time limits?

Child care assistance must be provided to community service participants as specified in MPP Section 42-750. Other supportive services, such as assistance with transportation and ancillary expenses, and personal counseling, may be provided at the county's option as described in the county's plan. Counties are reminded that if they do not provide the supportive services necessary for a recipient to participate in their assigned activity or accept employment, a recipient will have good cause for not participating.

12. If a CalWORKs participant fails, without good cause, to participate in his/her assigned welfare-to-work activities post 18- or 24-month time limit, is that individual's failure to comply treated as a sanction, or is the individual simply discontinued from cash aid?

In accordance with MPP Section 42-711.94, individuals who fail, without good cause, to participate in community service are to be sanctioned in accordance with MPP Section 42-721.4, which requires removal of the adult from the AU. However, before a sanction is imposed, a client must be provided the opportunity to present good cause for nonparticipation, and enter into and comply with a compliance plan, as specified in MPP Section 42-721.2.

Page Eight

If you have any questions regarding this letter or have additional questions or issues concerning community service, please contact Milt Yee, Employment Bureau, at (916) 657-3399. Any questions about income disregards should be directed to Julie Lopes, CalWORKs Eligibility Bureau, at (916) 654-1786. Questions regarding supportive services should be directed to Karen Kennedy, Work Support Services Program, at (916) 654-3400.

Sincerely,

Original document signed by Bruce Wagstaff

On 12/27/99

BRUCE WAGSTAFF

Deputy Director

Welfare to Work Division

c: CWDA
CSAC